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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,947	05/25/2001	Peter J. Fritz	55758USA4A.002	6660

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EXAMINER

NGUYEN, DUNG V

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 07/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,947

Applicant(s)

FRITZ ET AL.

Examiner

Dung V Nguyen

Art Unit

3723

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 20 is/are allowed.
- 6) ☒ Claim(s) 1-13 and 17-19 is/are rejected.
- 7) ☒ Claim(s) 14, 15 and 21 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-4, 7, 8, 12, 13, 17, 18 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Hettes et al (USPN 5,951,389). Hettes discloses an abrasive article 300 comprising a backing plate 304 having a first major surface and a second major surface opposite the first major surface, wherein the backing plate 304 includes a central aperture 310 extending therethrough, wherein the backing plate comprises a thermal binder material and fibrous reinforce material, an abrasive layer 302 secured to the first major surface of the backing plate 304, a fastener 306 press fitted to the backing plate 304 so as to defined the central aperture, an adhesive disposed between the abrasive layer 302 and the first major surface of the backing plate 304, wherein the backing plate 304 is generally circular, wherein the article is a flap disc, wherein the abrasive layer 302 is comprised of nonwoven abrasive layer, wherein the fibrous reinforcing material comprises glass fibers, wherein the backing plate comprises glass-filled nylon, wherein the fastener 306 is a quick-change type, wherein the abrasive layer 302 comprises a substrate 124 and a plurality of abrasive particles secured to the substrate 124 by binder. Hettes also inherently disclose a method of abrading a surface comprising providing an abrasive article 300 described above, attaching the abrasive

article 300 to a shaft 316 through the central aperture 310 of the abrasive article 300, contacting a portion of the abrasive article 300 with a surface of a workpiece, moving the abrasive article 300 relative to the surface of the workpiece (note Fig. 3, 4, 9-11, col. 1, lines 45-59, col. 4, line 8 to col. 6, line 35).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 5, 6, 9, 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hettes et al (USPN 5,951,389) in view of Stout et al (USPN 5,316,812). Hettes et al disclose the claimed invention as described above, however, Hettes et al do not disclose the thermoplastic binder material includes polyamide or polyester, the backing plate has a thickness of from about 0.51 mm to about 1.78 mm, about 1.02mm to about 1.40 mm or about 1.27 mm. Stout et al disclose a backing plate comprises a thermoplastic binder material includes polyamide or polyester, the backing plate has a thickness of from about 0.5 mm to about 1.2 mm, or less than about 1.50 mm (note Fig. 1 and 2, col. 2, lines 23-61, col. 5, lines 15-51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the abrasive article of Block et al with the backing plate as disclosed by Stout et al in order to provide a harden plate that will not substantially deform or disintegrate during use.

Allowable Subject Matter

5. Claims 16 and 20 are allowed.
6. Claims 14, 15 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

7. Applicant's arguments filed 2 May 2003 have been fully considered but they are not persuasive.

In response to applicant's argument that it is unclear to applicant how the statement at column 5, lines 50-51 properly discloses or suggests a fastener press fit to a backing plate. Hettes et al also discloses how a fastener press fit to a backing plate in column 1, lines 47-49, as follows "For instance, finishing discs which include a thick plastic backing plate usually have a metal insert press-fit or bonded into a hole formed through the backing plate".

In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

8. Applicant's arguments, see page 8-13, filed 2 May 2003, with respect to claims 14-16, 20 and 21 have been fully considered and are persuasive. The rejection of claims 14-16, 20 and 21 has been withdrawn.

Conclusion

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

10. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dung V Nguyen whose telephone number is 703-305-0036. The examiner can normally be reached on M-F, 6:30-3:00.

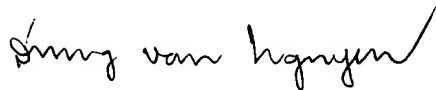
12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail can be reached on 703-308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

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13. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

DVN
July 11, 2003

A handwritten signature in cursive script, reading "Dung van Nguyen". The signature is written in black ink and includes a long, sweeping horizontal stroke at the end.

Dung Van Nguyen
Patent Examiner